

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS

VICTORIA DIVISION

DARRELL GENE OLISOVSKY,	§	
#1720783	§	
	§	
V.	§	CIVIL ACTION NO. V-13-070
	§	
WILLIAM STEPHENS, DIRECTOR	§	

ORDER ADOPTING
REPORT AND RECOMMENDATION

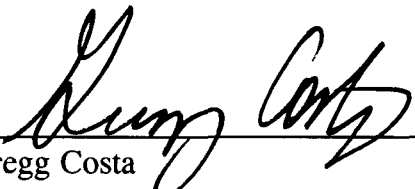
On December 10, 2013, Magistrate Judge John R. Froeschner submitted a Report and Recommendation to this Court in which he recommended the dismissal, without prejudice, of the habeas petition of Darrell Gene Olsovsky. On December 30, 2013, Olsovsky filed a "Request for Reconsideration." In his Request, Olsovsky concedes that when he filed this case, on September 9, 2013, he had not yet exhausted all of his alleged claims; however, on November 13, 2013, the Texas Court of Criminal Appeals denied his second habeas petition and exhaustion was completed.

On December 2, 2013, Olsovsky filed a "Petition for Writ of Habeas Corpus" in the Eastern District of Texas attacking the same conviction made the basis of this case. That "new" petition, now Civil Action No. V-13-88, was transferred to this Court on December 6, 2013, and referred to Magistrate Judge Froeschner, on January 2, 2014, for all pretrial proceedings.

Under these circumstances, it is hereby **ORDERED** and **ADJUDGED** that:

- 1) the Report and Recommendation of Magistrate Judge Froeschner is **APPROVED** and **ADOPTED** by this Court; and
- 2) the "Petition for Writ of Habeas Corpus of a Person in State Custody" of Petitioner, Darrell Gene Olsovsky, is **DISMISSED**, without prejudice to **Olsovsky proceeding in Civil Action No. V-13-88**.

DONE at Galveston, Texas, this 6th day of January, 2014.



Gregg Costa
United States District Judge